

Sunset Public Hearing Questions for
APPLIED BEHAVIOR ANALYST LICENSING COMMITTEE
Created by Section 63-11-303, *Tennessee Code Annotated*
(Sunset Termination June 2016)

1. Provide a brief introduction to the Applied Behavior Analyst Licensing committee, including information about its purpose, statutory duties, staff and administrative attachment.

The Applied Behavior Analyst Licensing Committee was created in 2014 by an act of the State Legislature. Its mission is to safeguard the health, safety, and welfare of Tennesseans by requiring those who practice applied behavior analysis within this state be qualified. The committee awards licenses to qualified candidates who have met the qualifications for licensure as set out in the Practice Act. The committee interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The committee is responsible for the investigation of alleged violations of the Practice Act and rules and is responsible for the discipline of licensees who are found guilty of such violations.

The committee consists of five members appointed by the governor, three of which are licensed behavior analysts, one assistant behavior analyst and one consumer member of the public. The law sets forth procedures for obtaining and maintaining licensure for behavior analysts and assistant behavior analysts. It adds the chair of the committee as an ex-officio voting member to the Board of Examiners in Psychology. The committee meets quarterly for regular meetings and as needed for special or called meetings. A quorum of three members is required to conduct business. Meetings are open to the public.

The administrative staff of the Division of Health Related Boards supports the Committee by issuing licenses. Renewal notices are mailed from the committee's administrative office forty-five (45) days prior to the expiration of the license to the current address on record. If a licensee has "opted in" to receive email notification of renewal, an email will be sent forty-five (45) days prior to the license expiration date. Licensees are responsible for renewing their license on time and keeping the committee apprised of current information. Licenses can be renewed on-line seventy (70) days prior to expiration.

2. Provide a list of current members of the committee and explain how membership complies with the provisions of Section 63-11-303, *Tennessee Code Annotated*. Are there any vacancies on the committee and, if so, what is being done to fill those vacancies?

Mary Annette Little, Ph.D	Applied Behavior Analyst	6/30/17	Female	Caucasian
Melissa Switzer, Ph.D	Behavior Analyst	6/30/15	Female	Caucasian
Tammy L. Davis	Assistant Behavior Analyst	6/30/17	Female	Caucasian
Michael S. Tonos	Applied Behavior Analyst	6/30/16	Male	Caucasian
Vacant	Consumer			

The vacancy is being addressed by the Governor's office.

3. Does the committee's membership include public/citizen members? Female members? Members of racial minorities? Members who are 60 years of age or older?

The statute provides for a consumer member, however this member has not been appointed yet. There are female members, but no one yet over 60 years of age; there is not currently a member of a racial minority.

4. How many times did the committee meet in fiscal year 2014 and to date in fiscal year 2015? How many members were present at each meeting?

The committee had its inaugural meeting on May 18, 2015. Four members were present.

5. What per diem or travel reimbursement do committee members receive? How much was paid to committee members during fiscal year 2014 and to date in fiscal year 2015?

The statute does not provide for a per diem for the committee members. Members do receive reimbursement of travel expenses for mileage, hotel and meals (airfare, if needed.) Members are reimbursed for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration.

	2015
Per Diem	0
Mileage	437.10
Hotel	459.91
Parking/Baggage/Taxi/Registration	0
Meals	198.00
Airfare	0
Total	\$1,095.01

6. What were the committee's revenues (by source) and expenditures (by object) for fiscal year 2014 and to date for fiscal year 2015? Does the committee carry a fund balance and, if so, what is the total of that fund balance? If expenditures exceeded revenues, and the committee does not carry a fund balance, what was the source of the revenue for the excess expenditures?

The committee has no revenue to date. Rules are being promulgated to define fees.

7. Is the committee subject to Sunshine law requirements (per Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the committee have for informing the public of its meetings and making its minutes available to the public?

The committee is subject to the Sunshine law requirements of T.C.A. 8-44-101 et seq. A public meeting notice is posted to the committee's website on the 15th of the month preceding the month the committee meets as well as posting the information on the Public Participation Calendar. The Unit Director ensures that the Sunshine Notice is posted on the Internet and that the Commissioner's Office is notified. Regarding minutes, the committee's administrative staff attends all meetings and takes minutes. Those minutes are then prepared for review and ratification by the committee at its next regularly scheduled meeting. After the minutes are ratified, they are then placed on the committee's web site. Additionally, as of January 1, 2015, each meeting of the Committee is streamed live so the public can view the meeting as it is actually being held.

8. Please describe what policies and procedures the committee has in place to address potential conflicts of interest by committee members, staff and employees.

All committee members are educated on the Department of Health's Conflict of Interest Policy and reminded during the course of each meeting of the obligation to strictly adhere to it. Committee members are required to sign a conflict of interest statement upon appointment or as soon as practical and annually thereafter. It is the responsibility of the committee administrator to insure that the Conflict of Interest Statement is properly and timely signed. The committee's administrative office keeps signed copies on file in the Central Office of Health Related Boards.

9. Has the committee promulgated rules as authorized in Section 63-11-307(d), *Tennessee Code Annotated*? If yes, please cite the reference.

Rules are in the process of being drafted at this time. A preliminary set of rules has been presented to the committee at their meeting held on May 18, 2015. As of this time, the rules are undergoing the internal review process at the Office of General Counsel. This review goes to the chief deputy, the general counsel, the Commissioner's staff, and finally the Governor's staff. When approval through all channels has been received, the rulemaking notice can be filed with the Secretary of State's Office and the rulemaking hearing can be conducted. The rulemaking notice must be filed at least forty-five (45) plus five (5) business days prior to the hearing; all rulemaking hearings are held at regularly scheduled meetings.

10. Does the committee have a website? Is so, please provide the web address. What kind of public information is provided on the website?

We are in the process of forming the committee's website. Included on the website will be meeting dates; council members; meeting minutes; applications; statutes, rules and policies; licensure and educational information; as well as links to other Department of Health information.

11. How many behavior analysts are licensed under the provisions of Section 63-11-304, *Tennessee Code Annotated*?

The committee has not begun licensing behavior analysts. The anticipated number is somewhere around 400.

12. How many new licenses and how many renewals has the committee issued in fiscal year 2014 and to date in fiscal year 2015? How does the committee ensure that licensees meet all licensure requirements?

No licenses have been issued. The committee will ensure that licensees meet all licensure requirements by conducting a thorough application review before licensure is granted.

13. How many licenses were issued under reciprocity and how did the committee assure itself that the other state's or country's standards were as stringent as those required in Tennessee?

No licenses have been issued under reciprocity.

14. How many license applications did the committee deny during fiscal year 2014 and to date in fiscal year 2015? What were the reasons for denial?

No applications have been denied.

15. How many licenses did the committee revoke or suspend in fiscal year 2014 and to date in fiscal year 2015? What were the reasons for the revocations or suspensions?

No licenses have been suspended.

16. How many complaints did the committee investigate during fiscal year 2014 and to date in fiscal year 2015? What kinds of complaints were received? How many resulted in some form of remedial action being taken by the committee?

There have been no complaints received since there are no licensees.

17. Describe the process by which the committee receives, handles, and tracks complaints. Are there written procedures? Are complaints rated by level of seriousness or other priority-handling method? Is a complaint log maintained? What is the average time to resolve a complaint? At what point is a complaint closed?

Complaints will be triaged at intake to ensure that emergency issues are handled immediately, with investigations commencing on the same and/or following day. Routine complaints are processed according to an established review procedure utilizing practicing members of the profession as consultants and a staff attorney assigned by the Department of Health. Complaints are designated by priority code, which can change during the course of an investigation. Complaints are tracked utilizing a computerized database system.

Written procedures are in place to serve as a guideline for the effective investigation and preparation of the necessary evidence for purposes of prosecution.

A complaint can be closed at initial review and/or after an investigation.

Benchmarks have been established for the review and the investigative stages. A 30 day benchmark is established for the review process with a 90 day benchmark established for the investigation process.

18. What steps has the committee taken to increase consumer awareness of the committee as a mechanism to respond to consumer complaints and regulate the industry?

The Department of Health maintains a website at <http://tn.gov/health/article/hcf-complaint> which provides consumers with an in depth description of the complaint process including how to file a complaint and what they may expect from the Department of Health.

19. How many contested cases did the committee hear in fiscal year 2014 and to date in fiscal year 2015? How many such cases were heard by an administrative law judge and reviewed by the committee? Of the cases heard, how many resulted in penalties being upheld? Reduced? Dismissed?

There were no contested cases.

20. Of enforcement actions undertaken by the committee in fiscal year 2014 and to date in fiscal year 2015, how did the committee become aware of the situations resulting in the enforcement action?

There were no enforcement actions taken.

21. Does the committee have the authority to impose civil penalties? Is so, what penalties have been assessed and what is the total amount of such penalties?

Pursuant to T.C.A. § 63-1-120, the committee has the authority to impose civil penalties. There have been no civil penalties imposed to date.

22. Has the committee developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the committee has developed and implemented quantitative performance measures, answer questions 23 through 30. If the committee has not developed quantitative performance measures, proceed directly to question 31.

Not at this time, but the Health Related Boards administrative office will establish benchmarks for the processing of applications and renewals. The application benchmark will be one hundred (100) days from the date the application is received in the administrative office to issuance of licensure. The benchmark for renewals will be fourteen days.

23. What are your key performance measures for ensuring the committee is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

To promote the mission of the Department of Health which is to protect, promote and improve the health and prosperity of the people in Tennessee. The Health Related Boards' role in that mission is to insure that only the best, most qualified practitioners provide healthcare services in the state. In order to balance that obligation with our desire to provide excellent customer service to healthcare providers, the Health Related Boards has established benchmarks to assure that applications for licensure are received, processed and reviewed in a timely manner. Twice yearly, a benchmark report is prepared and reviewed to determine if board staffs are meeting those benchmarks.

24. What aspect[s] of the program are you measuring?

We will measure whether or not council administrative staff are processing applications and renewals in a timely manner within the established benchmark times.

25. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.

Relevant data will be collected twice yearly by the director from reports generated by the licensing system used by the Health Related Boards. It is generated in an Excel spreadsheet.

26. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.

The Health Related Boards has established benchmarks to assure that applications for licensure and renewal are received, processed and reviewed in a timely manner.

27. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?

The reported performance measure is a real number.

28. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.

The benchmark report is reviewed by the Director of the Health Related Boards and forwarded to the Assistant Commissioner for the Health Related Boards.

29. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.

The Health Related Boards Policies and Procedures Manual will be updated to include the Applied Behavior Analyst Licensing Committee benchmarks.

30. Describe any concerns about the committee's performance measures and any changes or improvements you think need to be made in the process.

There are no performance measure concerns.

31. What were the major accomplishments of the committee during fiscal year 2014 and to date in fiscal year 2015?

There are no major accomplishments to report.

32. Please describe any reports prepared by the committee during fiscal years 2013 and 2014 and to date in fiscal year 2015 and specify to whom the reports are sent. Please attach copies of the reports.

There were no reports prepared by the committee.

33. Provide an explanation of any items related to the committee that may require legislative attention, including your proposed legislative changes.

T.C.A. 63-11-30-307 provides that all licenses shall be valid for a period of two years from the date of issuance. Since all the initial licenses will be granted at much the same time, all renewals will be done at the same time which will place an immense burden on the administrative staff that will have to process all the renewals received in a very short amount of time.

The Health Related Boards have a system of established licensure renewals at alternative intervals that allow for the distribution of the license workload as uniformly as practicable throughout the calendar year. Licenses issued under the alternative method are valid for twenty-four (24) months and expire on the last day of the last month of the license period.

The committee asks that the language of the statute be changed to conform to the established system of renewals as used by the Health Related Boards.

34. Should the committee be continued? To what extent and in what ways would the absence of the committee affect the public health, safety, or welfare of the citizens of the State of Tennessee?

The committee should be continued. Without the presence of the Applied Behavior Analyst Licensing Committee, members of the public whose health care is provided by applied behavior analysts would be uncertain that their healthcare provider is fully qualified to practice his/her profession and does so in a safe and ethical manner.

35. Please list all committee programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

The committee receives no federal assistance.

If the committee does receive federal assistance, please answer questions 36 through 43. If the committee does not receive federal assistance, proceed directly to question 42.

36. Does the committee prepare a Title VI plan? If yes, please provide a copy of the most recent plan.
37. Does the committee have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.
38. To which state or federal agency (if any) does the committee report concerning Title VI? Please describe the information your committee submits to the state or federal government and/or provide a copy of the most recent report submitted.

39. Describe the committee's actions to ensure that association staff and clients/program participants understand the requirements of Title VI.
40. Describe the committee's actions to ensure it is meeting Title VI requirements. Specifically, describe any committee monitoring or tracking activities related to Title VI, and how frequently these activities occur.
41. Please describe the committee's procedures for handling Title VI complaints. Has the committee received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).
42. Please provide a breakdown of current committee staff by title, ethnicity, and gender.

POSITION	RACE	GENDER
Administrative Director	Caucasian	Female
Administrator	Caucasian	Female
Licensing Tech	African American	Female

43. Please list all committee contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

There are no committee contracts.